

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 833 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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DAMJI PREMJI

Versus

STATE OF GUJARAT

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Appearance:

MR YS MANKAD for Petitioners

S.A. Pandya, PUBLIC PROSECUTOR for Respondent No. 1

MR SC PATEL for Respondent No. 2

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CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 22/10/96

ORAL JUDGEMENT

The petitioners who are contractors have been tried in the Court of Judicial Magistrate First Class, at Nakhatrana in Criminal Case No. 234 of 1983 for the alleged breach committed by them of the provisions of Contract Labour (Regulation & Abolition) Act, 1970. The learned Magistrate by his judgment and order of conviction dated 4.7.1984 convicted both the petitioners and sentenced them to pay a fine of Rs 100/ on each count, in all Rs 1200/ for 12 counts and, in default, to undergo 5 days simple imprisonment. Against the said judgment and order, the petitioners have preferred an appeal being Criminal Appeal No. 45 of 1984 in the Court of Learned Sessions Judge, Kutchh at Bhuj and the same was also rejected on 13.4.1987. Against the said judgment and order, the petitioners have filed this present petition under Article 227 of the Constitution of India.

Mr. YS Mankad learned advocate appearing for the petitioners has been confronted with the provisions of section 376(b) of the Code of Criminal Procedure which provides that there shall be no appeal by a convicted person whereby Court of Session or Metropolitan Magistrate passes only a sentence of imprisonment for a term not exceeding three months or of fine not exceeding two hundred rupees, or of both such imprisonment and fine. Mr. Mankad frankly concedes that in view of this provision the appeal is not maintainable in this court. The fact that both the petitioners are sentenced to pay fine of Rs. 100 of each count and in all Rs 1200/ for 12 counts, is in my view a petty case which cannot be a subject matter of challenge in the petition under Article 227 of the constitution of India especially when statute prohibits appeal. The fact that this court has not stayed the judgment and order of sentence while issuing rule in the matter and as stated by Mr. Mankad the amount of fine has already been paid, this Court is hardly interested in deciding such petty dispute, as in my view, the dispute has become mere academic. Apart from that, this Court while exercising powers under Article 227 of the Constitution of India cannot sit as a Court of Appeal over the decision of the courts below.

In the result, there being no substance in the petition and the same is rejected. Rule is discharged.

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